

OPPOSE – House Bill 1420

HB1420 – Cybersecurity – Office of People’s Counsel, Public Service Companies, Public Service Commission, and Maryland Cybersecurity Council

Economic Matters Committee

Tuesday, March 12, 2024

Potomac Edison, a subsidiary of FirstEnergy Corp., serves approximately 285,000 customers in all or parts of seven Maryland counties (Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington). FirstEnergy is dedicated to safety, reliability, and operational excellence. Its ten electric distribution companies form one of the nation's largest investor-owned electric systems, serving customers in Ohio, Pennsylvania, New Jersey, New York, West Virginia, and Maryland.

Unfavorable

Potomac Edison / FirstEnergy opposes House Bill 1420 – *Cybersecurity – Office of People’s Counsel, Public Service Companies, Public Service Commission, and Maryland Cybersecurity Council*. HB-1420 requires the Office of People’s Counsel (OPC) to hire a cybersecurity expert, requires public service companies to have a third-party assessment of critical software, necessitates certification submittals to OPC, and add regulations for cyber resilience.

Potomac Edison / FirstEnergy requests an Unfavorable report on HB-1420. Adding additional requirements to the Critical Infrastructure Cybersecurity Act of 2023, while it is still evolving, will lead to additional costs and time delays in implementation.

Codifying detailed cybersecurity rules in legislation, which by nature evolves slowly, creates problems in the fast-moving landscape of technology and cybersecurity. The current process of rulemaking, overseen by and in collaboration with the Maryland Public Service Commission (PSC), works well and provides risk-based, cost-effective oversight. Potomac Edison / FirstEnergy recognizes the importance of implementing effective cybersecurity controls consistent with established and evolving security standards to protect critical infrastructure and maintain safe, reliable, and affordable energy delivery for our customers. From a practical security perspective, additions proposed in HB-1420 would not materially improve upon what Maryland’s investor-owned utilities are already doing in the cybersecurity arena under the supervision of the PSC. This legislation could result in significant additional costs for Maryland citizens and result in regulatory confusion for the public service companies.

The PSC’s Cybersecurity Working Group is struggling to determine and obtain consensus on the meaning of the cybersecurity legislation passed in 2023. Adding OPC and additional requirements at this time, will only compound the problems the working group is grappling with. In addition, new or changed definitions related to zero trust, supply chain risks, and other key terms are not helpful. Significant time and cost are wasted attempting to align on reasonable implementation rules that need to contend with real-world conditions, while staying within the letter and spirit of the law. Changing in the middle of the rulemaking process will force a reset, leading to even more time spent before any meaningful security changes come to fruition.

The bill's inclusion of an additional OPC security expert and mandatory reporting to OPC is also concerning. Boundaries between the PSC and the Maryland Department of Information Technology have been problematic in the implementation of the 2023 legislation. Adding another agency will only compound these issues, while not providing any meaningful cybersecurity benefits. Oversight of the public service companies, and the delivery of compliance reports, certifications, and assessments should remain the sole province of the PSC.

Potomac Edison / FirstEnergy is constantly improving our cybersecurity programs to stay ahead of threats pursuant to federal and state cybersecurity requirements. Divergence from federal and national norms for cybersecurity regulations, inserting additional stakeholders, creating very specialized requirements in law, and adding more third-party certifications into the process, may introduce unintended risks to the consistent and successful compliance programs we and the other Maryland utilities currently maintain. For example, the attempt to codify "Cyber Resilience" as some form of operational metric, or standard is likely impossible, as no such uniform concept exists. Attempts to comply with this requirement, which is not risk-informed or cost-informed, would be inconsistent across companies and would unnecessarily increase compliance costs with little measurable benefit.

Potomac Edison / FirstEnergy manages cyber-security costs, and performance is enhanced, by managing the corporation's entire multi-utility system on a central and uniform basis. Developing custom approaches for Maryland that diverge from federal and state regulatory standards is difficult and expensive.

We believe this legislation will result in the current cybersecurity process becoming extremely burdensome and expensive, without creating any benefit to Maryland customers. For these reasons, **Potomac Edison / FirstEnergy respectfully request an Unfavorable report on HB-1420.**